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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 22nd November, 2019:—

I

BILL No. XXX OF 2019

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2019.

Short title and commencement.

(2) It shall come into force at once.

2. In the Tenth Schedule to the Constitution in clause (b) of sub-paragraph (1) of paragraph (2), after the words “if he votes or abstains from voting”, the words “in the No-Confidence Motion or the Constitution Amendment Bill”, under article 368 of the Constitution shall be inserted.

Amendment of the Tenth Schedule.

STATEMENT OF OBJECTS AND REASONS

The Tenth Schedule of the Constitution makes provisions as to disqualifications for membership of either House of Parliament or the Legislature of the State on ground of defection. Clause (b) sub-paragraph (1) of paragraph (2) provides that a member shall be disqualified for being a member if he votes or abstains from voting contrary to any direction given by the party to which he belongs. The foundational assumptions of Parliamentary democracy of freedom of speech of the right to dissent and of the freedom of conscience must be respected in order to uphold the principles of public policy essential to the working of a representative Government. An elected member shall be freely allowed to express his views on matters in accordance with his conscience, faith and political belief. Even though loyalty towards the plitical party is of utmost importance; the will of the constituents, the personal unbiased opinion and mature judgement shall not be undermined.

Often the view expressed by the Members in the House have resulted in substantial modification, and even the withdrawal of the proposals under consideration. Debates and expression of different points of view, thus, serve an essential and healthy purpose in the functioning of Parliamentary democracy. There might be a conflict between political obligations to the political party sponsoring him which expects and exacts in its own way, loyalty to it and the political morality, will of the people or personal conscience. So far as his own personal views on freedom of conscience are concerned, there may be exceptional occasions when the elected representative finds himself compelled to consider more closely how he should act in a situation where he may feel that the policy of his party, whether it is in office or in opposition, on a particular matter is not one of which he approves. At such times an expression of views during the debate in the House may lead to voting or abstention from voting in the House otherwise than on party lines. Keeping in view the Fundamental principles and values which are basic to the sustenance of the very system of Parliamentary democracy, such voting or abstention should be allowed in normal course. A member shall however be required to follow the directions issued by his political party to which he belongs as a no confidence motion or a Constitution Amendment Bill.

Hence, this Bill.

DR. VIKAS MAHATME

II

BILL No. XLI OF 2019

A Bill to provide for the right to free and compulsory healthcare services and universal health to people and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 1. (1)** This Act may be called the Right to Universal and Free Health Care Act, 2019.
(2) It shall extend to whole of India.

Short title,
extent and
commencement.

- (3)** It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Definitions.

2. In this act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(i) in relation to a hospital established, owned or controlled by the Central Government, or the administrator of the Union Territory, having no Legislature, the Central Government;

(ii) in relation to a hospital, other than the hospital referred to in sub clause (i), established within the territory of—

(a) a State, the State Government;

(b) a Union territory having Legislature, the Government of that Union territory.

(b) “hospital” means any recognised hospital providing healthcare facilities and services and includes—

(i) a hospital established, owned or controlled by the appropriate Government or a local authority;

(ii) an aided hospital receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

(iii) a hospital belonging to a specified category; and

(iv) an unaided hospital not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.

(c) “hospital Management Committee” means any Committee or Authority having power to direct or Control any or all of the operations of the hospital;

(d) “individual” means any person with Indian citizenship according to the Citizenship Act, 1955.

(e) “local authority” means a Municipal Corporation or Municipal Council or *Zila Parishad* or *Nagar Panchayat* or *Panchayat*, by whatever name called, and includes such other authority or body having administrative control over the hospital or empowered by or under any law for the time being in force to function as a local authority in any city, town, or village.

(f) “person belonging to disadvantaged group” means a person belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor;

(g) “person belonging to weaker section” means a person belonging to such a family whose annual income is lower than the minimum limit specified by the appropriate Government;

(h) “specified category” means category of hospitals specified in the Clinical Establishments (Registration and Regulation) Act, 2010.

(i) “underlying determinants of health” means factors affecting health other than direct diseases and includes facilities of safe drinking water and adequate sanitation, clean air, safe food, adequate nutrition, healthy working and environmental conditions, and health-related education.

57 of 1955.

3 of 2010.

3. (1) Every individual shall have a right to free and compulsory health care facilities and services in any hospital in geographical proximity.

Right to Free and Compulsory Health Care facilities and services.

(2) For the purpose of sub-section (1), no individual shall be liable to pay any kind of charges or expenses which may prevent him or her from availing healthcare services.

Right to seek to transfer or referral to other hospital.

4. (1) Where in a hospital, there is a lack of healthcare and medical facilities, an individual shall have a right to seek transfer or refer to any other hospital.

(2) Where an individual is required to move from one hospital to another, either within a State or outside, for any reason whatsoever, such individual shall have a right seek transfer to any other hospital, for getting medical treatment.

(3) For seeking transfer/referral in such other hospital, the Head or In-charge of the hospital where such individual was last admitted, shall immediately issue the transfer/referral certificate:

Provided that delay in producing transfer/ referral certificate shall not be a ground for either delaying or denying admission in such other hospital:

Provided further that the head or In-charge of the hospital delaying issuance of transfer/ referral certificate shall be liable for disciplinary action under the service rules applicable to him or her.

Right to Universal Health.

5. (1) Every individual shall have the right to basic necessities of life affecting the health conditions.

compensation or failure to provide underlying determinants of heath.

(2) Every individual shall have the right to opportunity to enjoy the highest attainable level of health.

Establishment of new hospitals.

(3) Every individual shall have a right to universal health in and around his or her surroundings, which may include “underlying determinants of health”.

6. Failing to provide the “underlying determinants of health” to an individual without sufficient and reasonable cause, the appropriate Government shall provide compensation to the individual as per provisions of this Act.

Central and State Government to provide funds.

7. The appropriate Government shall establish, within such areas of limits of neighbourhood, as may be prescribed, a hospital, where it is not so established, within three years from the Commencement of this Act.

8. (1) The Central Government and the State Government shall have concurrent responsibility for providing funds for carrying out the provisions of this Act.

(2) The Central Government shall prepare the estimates of capital and recurring expenditure for the implementation of the provisions of the Act.

(3) The Central Government shall provide to the State Governments, as grants-in-aid of revenues, such percentage of expenditure as it may determine, from time to time, in consultation with the State Governments for the purposes of this Act.

(4) The Central Government may make a request to the President to make a reference to the Finance Commission to examine the need for additional resources to be provided to any State Government so that the said State Government may provide its share of funds for carrying out the provisions of the Act.

(5) The State Government shall, after taking into consideration of the sums provided by the Central Government and its other resources, be responsible to provide funds for implementation of the provisions of the Act.

(6) The Central Government shall,—

(a) develop and enforce standards for training of doctors;

(b) provide technical support and resources to the State Government for promoting innovations, researches, planning and capacity building.

Duties of appropriate Governments.

9. The appropriate Government shall,—

(a) provide free and compulsory healthcare facilities and services to every individual;

Explanation.—The term “free and compulsory healthcare” means obligation of the appropriate Government to provide free and compulsory healthcare facilities to every individual;

(b) entitle every individual with universal health facilities.

Explanation.—The term “universal health” means, the underlying determinants of health affecting the health of an individual.

(c) ensure availability of a hospital;

(d) ensure that the individual belonging to weaker section and the individual belonging to disadvantaged group are not discriminated against and prevented from availing healthcare facilities and underlying determinants of health facilities on any grounds;

(e) provide infrastructure including hospital, medical staff and learning equipments;

(f) ensure and monitor admission of individuals in hospitals;

(g) ensure good quality healthcare facilities and underlying determinants of health facilities conforming to the standards and norms as may be specified; and

(h) ensure timely entitlement of healthcare facilities and underlying determinants of health facilities.

Responsibilities of Hospitals and Doctors.

10. (1) For the purposes of this Act, a hospital shall provide free and compulsory healthcare facilities and services to all individuals admitted therein;

(2) The privately owned hospitals providing free and compulsory healthcare facilities and services shall be reimbursed expenditure so incurred by it to the extend to per-individual expenditure incurred by the State, or the actual amount charged from the individual, whichever is less, in such manner as may be prescribed:

Provided that such reimbursement shall not exceed per-individual expenditure incurred by a hospital specified in clause (b) of section 2:

Provided further that where such hospital is already under obligation to provide free healthcare facilities and services to a specified number of individuals on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such hospital shall not be entitled for reimbursement to the extent of such obligation.

(3) Every hospital shall provide such information as may be required by the appropriate Government or the local authority, as the case may be.

Protection against physical or mental harassment.

11. (1) No individual shall be subjected to physical punishment or mental harassment in providing free healthcare facilities and services;

(2) Whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the service rules applicable to such person.

12. No hospital shall be established or recognised under section 18, unless it fulfils the norms and standards specified in the Act.

Formations of Hospital Management Committee.

13. (1) There shall be constituted a Management Committee, in the manner prescribed, consisting of not more than ten members including the Chairperson for every hospital under this Act.

(2) The Hospital Management Committee shall perform the following functions, namely:—

- (a) monitor the working of the hospital;
- (b) prepare and recommend hospital development plan;
- (c) monitor the utilisation of the grants received from the appropriate Government or local authority or any other source; and
- (d) perform such other functions as may be prescribed.

Functions of the Hospital Management Committee.

14. (1) A doctor appointed in a hospital described under clause (b) of section 2, shall perform the following duties, namely:—

- (a) maintain regularity and punctuality in attending hospital;
- (b) conduct and complete the treatment of the individual in accordance with the provisions;
- (c) admit and treat the individual timely;
- (d) assess the learning ability of each individual and accordingly supplement additional instructions, if any, as required;
- (e) regularly inform family members of the individual undergoing treatment and apprise them about the recovery, progress and relevant updates about the health of the individual; and
- (f) perform such other duties as may be prescribed.

Duties of doctors.

(2) A doctor committing default in performance of duties specified in sub-section (1), shall be liable to disciplinary action under the service rules applicable to him or her:

Provided that before taking such disciplinary action, reasonable opportunity of being heard shall be afforded to such doctor.

Disciplinary action against defaulting doctors.

(3) The grievances, if any, of the doctor shall be redressed in such manner as may be prescribed.

15. Within six months from the date of commencement of this Act, the appropriate Government and the local authority shall ensure that the Doctor-Patient Ratio, as may be specified is maintained in each hospital.

Maintaining doctor-patient ratio.

16. (1) The National Medical Commission constituted under The National Medical Commission Act, 2019 shall, in addition to the functions assigned to them under that Act, also perform the following functions, namely:—

Additional Functions of the National Medical Commission.

- (a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;

- (b) inquire into complaints relating to individual's right to free and compulsory health care and universal health; and

(2) The Commission shall, while inquiring into any matters relating to individual's right to free and compulsory health care and universal health, have the same powers as assigned to them respectively under the said National Medical Commission Act, 2019.

(3) Where the State Medical Council has not been constituted in a State, the appropriate Government may, constitute such authority to exercise the powers conferred on, and to perform the functions assigned to it under this Act, in such manner and subject to such terms and conditions, as may be prescribed.

17. (1) Any person having any grievance relating to the right to an individual under this Act may make a written complaint to the local authority having jurisdiction.

Protection of Right of Individuals.

(2) After receiving the complaint under sub-section (1), the local authority shall decide the matter as early as possible after affording a reasonable opportunity of being heard to the parties concerned.

(3) Any persons aggrieved by the decision of the local authority may prefer an appeal to the State Medical Council or the authority prescribed under sub-section (3) of section 16, as the case may be.

(4) The appeal preferred under sub-section (3) shall be decided by State Medical Council or the authority prescribed under sub-section (3) of section 16, as the case may be, as provided under clause (b) of sub-section (1) of section 16.

Power to issue
guideline and
directions.

18. (1) The Central Government may issue guidelines and give such directions to the State Government or the local authority as the case may be as it deems fit for the purposes of implementation of the provisions of this Act.

(2) The appropriate Government may issue guidelines and give such directions, as it deems fit, to the local authority or the Hospital Management Committee regarding implementation of the provisions of this Act.

(3) The local authority may issue guidelines and give such directions, as it deems fit, to the Hospital Management Committee regarding implementation of the provisions of this Act.

Protection
from
prosecution or
legal
proceeding.

19. No prosecution for offences punishable shall be instituted except with the previous sanction of an officer authorised in this behalf, by the appropriate Government, by notification.

Act to
supplement
other laws.

20. No suit or other legal proceeding shall lie against the Central Government, the State Government, the National Medical Commission, the State Medical Commission, the local authority, the Hospital Management Committee or any person, in respect of anything which is done in good faith or intended to be done, in pursuance of this Act, or any rules or order made thereunder.

Power to
make rules.

21. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

22. (1) The appropriate Government may, by notification, make rules, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any the following matters, namely:—

(a) the manner of giving special training and the time-limit thereof to doctor and medical staff;

(b) the area of limits for establishment of a neighbourhood hospital;

(c) the manner of maintenance of records of individual admitted in the hospital;

(d) the manner and extent of reimbursement of expenditure;

(e) the manner of redressing grievances of individual.

STATEMENT OF OBJECTS AND REASONS

Right to health and education are the founding pillars of any welfare state. India, after entitling the Right to Education, looks forward towards a legislation entitling Right to Health. Every nation-state is obliged to support the right to health through the allocation of maximum available resources. A rights-based approach to health requires that health programmes and schemes must prioritize the needs of those furthest behind first towards greater equity, a principle that has been echoed in the recently adopted 2030 Agenda for Sustainable Development and Universal Health Coverage, Even the WHO Constitution (1946) envisages “.....the highest attainable standard of health as a fundamental right of every human being.”

The health statistics of India are intensely worrying. According to the National Health Profile 2018, an average Indian spends a meager amount of Rs. 3 per day on his healthcare facilities. Infant Mortality Rate is still at a high figure i.e. 34 per 1000 in India. One allopathic government doctor in India, on an average, attends to a population of 11,082, which is 10 times more than the WHO recommended doctor-population ratio of 1:1,000. India is still facing a large number of casualties during break out of epidemics like Japanese Encephalitis and Swine Flu. Hence, India needs to entitle healthcare facilities to the people as a basic human right.

The Bill would also ensure free and universal healthcare facilities to every individual of India. The binding right to health would enable the last man standing to get healthcare facilities at no cost. The binding right to health would also enable the Centre and the State to allocate greater funds towards the healthcare, strengthening the healthcare system of India.

Hence, this Bill.

DR. ABHISHEK MANU SINGHVI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for Right to Free and Compulsory Healthcare facilities and services. Clause 7 provides for the establishment of hospitals, within such areas or limits of neighbourhood, where it is not so established, within three years from the commencement of this Act. Clause 13 provides for the establishment of hospital management committees. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible at present to quantify the funds that may be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 22 of the Bill empowers the appropriate Government to frame rules by notification in the Official Gazette, to carry out the provision of the Bill. The rules to be framed by the Government pertain to matters of administrative detail only. The delegation is, therefore, normal in character.

III

BILL NO. XLIV OF 2019

A Bill to identify the dwellers like farmers, labourers, artisans, tribes living in non-revenue or un-recognised villages and to provide those identified dwellers, to be entitled for registration as owners in respect of dwelling house, built on land not belonging to them and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India guarantees to secure all its citizens justice, social and economic, and equality of status;

AND WHEREAS in the past the revenue and non-revenue villages were created by the British to avoid the voting rights to the backward classes of India and the exploited class and their families were left with no land rights till date;

NOW THEREFORE, it is expedient to make law for land reform to provide land rights to those deprived classes.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Rights of Dwellers as owners of the Land Act, 2019.

(2) It extends to the whole of India.

Short title,
extent and
commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "competent authority" means such officers or authority appointed as the competent authority by the Central Government or State Governments as the case may be, or Central Government in consent with the State Governments, by notification in the Official Gazette, for the purpose of this Act.

(b) "identified dweller" means a person whom the Commissioner and the Assistant Commissioner or the officer authorized by the competent authority, shall after such enquiry as may be prescribed, by order, determine to be entitled for registration as owner of the dwelling house and land in respect of which he is entitled to be so registered ;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "unrecorded habitation" means a non-revenue or unrecognised village.

3. The Central Government and the State Governments shall within their territorial if Jurisdiction appoint competent authority within six months from the commencement of this Act, in such manner as may be prescribed, for the purposes of this Act.

4. Notwithstanding anything contained in this Act or any other law for the time being in force, where an agricultural labourer, artisan or a labourer is ordinarily residing in a dwelling house, on a land not belonging to him, in an unrecorded habitation on the date of commencement of this Act, upon notification by the competent authority, specifying the survey number and boundaries in the prescribed manner, such a dwelling house along with the site thereof and land immediately appurtenant thereto and necessary for its social and economical survival, shall on the date of such notification by the competent authority, vest absolutely with the concerned State Government free from all encumbrances and the identified dweller shall be entitled to be registered as owner thereof.

Explanation.—For the purpose of this Section, an identified dweller residing in a dwelling house which is a portion of the house of an owner or which is a temporary residence on such land shall not be regarded as ordinarily residing therein.

5. The competent authority shall submit a report of its findings from every survey and the action taken in each case to the Central Government and to the concerned State Government in such manner as may be prescribed.

6. (1) An identified dweller entitled to be registered as an owner under section 4, may make an application to the Assistant Commissioner or any other officer authorized by the State Government, in the prescribed manner before completion of one year from the date of notification by the competent authority under section 4.

(2) The Assistant Commissioner or the officer authorized by the State Government, shall after such enquiry as may be prescribed, by order, determine the person entitled to be registered as owner of the dwelling house and land and such other matters as may be prescribed and forward a copy of the order to the Tehsildar.

(3) The Tehsildar shall, on receipt of the order passed under sub-section (2) determine, in such manner as may be specified, the amount which the owner shall be entitled to for the extinguishment of his rights in such land and on payment of such amount to the State Government, by the, identified dweller, the Tehsildar shall issue a notification to this effect and also issue a certificate to such dweller specifying the extent and such other particulars as may be prescribed relating to such dwelling house and land and that he shall be registered as owner thereof.

(4) A copy of the certificate shall be forwarded by the Tehsildar to the sub-registrar who shall notwithstanding anything contained in the Registration Act, 1908 register the same.

16 of 1908.

7. An identified dweller or group of identified dwellers shall be entitled to receive free legal aid if he/she so chooses and to engage any advocate who he or she chooses from among those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987 and the Legal Aid Services Authority established under the said Act shall pay all costs, expenses and fees of the advocate appointed by the identified dweller in accordance with relevant rules.

39 of 1987.

Appointment of competent authority.

Identifications of dwellers by the competent authority.

Report by the competent authority.

Application by identified dweller.

Rights of identified dwellers.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in concurrence with the State Governments, may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

Power to remove difficulty.

9. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force except to the extent the provisions of other laws are inconsistent with the provisions of this Act.

Act to have overriding effect.

10. (1) The Central Government in concurrence with the State Governments may make rules to give effect to the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Father of the Constitution Dr. B.R. Ambedkar said "Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative."

After Independence of India, dependent communities for various reasons settled at one place. Their domain has not been recognized as recorded revenue village. The concept of revenue and non-revenue villages is a creation by the British to avoid the voting rights to the backward classes of India, *i.e.*, agricultural labourers, artisans, daily wage earners, adivasis, nomadic, semi-nomadic tribes, hilly areas, forest areas settlers. Their settlements are treated as un-recognised, un-recorded non-revenue villages. Due to their unrecognized status, basic facilities like drinking water, roads, transport, upgradation of technical education, health food distribution, public distribution system and other connectivity do not reach these areas. The dwellers of these areas are not given rights in the form of title deeds, occupancy rights or enjoyment rights. Keeping the above in view the State should, in a federal structure, do away with discriminatory classification of revenue and non-revenue, planning and non-planning and ensure that various facilities under National Programmes are equitably distributed based on the needs of the hamlets and habitats of India. Otherwise, their inhabitants will be treated a second rate citizens of the country due to denial of every rights in the forest, hilly border regions. Even today many unrecorded villages are without schools, teachers, health centers, postal and other communicating facilities.

The Constitution of India gives many rights to every citizen including the fundamental rights. Majority of the population which lives in the outskirts of the villages and peripheral of the forest land are not brought under the revenue records. Due to this, they will not be counted under the census and ultimately all the rights are denied to them.

In such situation, the State should not ill-treat these settlers as they are called in different traditional names, as in Karnataka such as Thanda, Hatti, Basti, Camp, Colony Adi, Wadi, Doddi, Palya, Puram or any other such un-recognised, un-recorded, un-surveyed, non boundaries, un-numbered domains. They number lakhs and lakhs in India. Land is a subject of State, but, the Central Government has every right to obtain the information and pass such law which deems fit to the dependent citizen of the country.

Constitution of India guarantees to secure all its citizens, justice, social, economic and equality of status. But, still there are several lakhs oppressed and exploited humans who have till date not been able to claim their rights and to safeguard constitutional intentions and their belief towards betterment of their families. It is deemed necessary to enact legislation for land reform which is an unfinished business of India till 2019, by giving ownership rights to the dweller who have spent their ages in their dwelling land/house without land ownership.

Hence this Bill.

B.K. HARIPRASAD

FINANCIAL MEMORANDUM

Clause 3 of the Bill *inter alia* provides for the appointment of Competent Authority for survey and investigations to identify dwellers under this Bill. The expenditure relating to States shall be borne out of the Consolidated Funds of respective States. The expenditure relating to Union territories shall be incurred from the Consolidated Fund of India. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore per annum would be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees twenty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government in concurrence with the State Governments to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

IV

BILL No. XXXIV OF 2019

A Bill to provide for the constitution and regulation of a new army regiment to be known as the Tribal Regiment for safeguarding the borders of the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Tribal (Adivasi) Regiment Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the Context otherwise requires,—

(a) "battalion" means the unit of the Regiment constituted as a battalion by the Central Government;

(b) "Commandant" when used in any provision of the Act, with respect to any unit of the Regiment means the officer whose duty is under the rules of discharge with respect to that unit, the functions of a Commandant in regard to the matters of the description referred to in that provision;

(c) "Criminal Court" means a court of ordinary criminal Justice in any part of India;

(d) "Deputy-Inspector General" means a Deputy Inspector General of the Regiment appointed under section 4;

(e) "Director General" means the Director-General of the Regiment appointed under section 4;

(f) "Government" means the Central Government;

(g) "Inspector-General" means the Inspector-General of the Regiment appointed under section 4;

(h) "notification" means notification published in the Official Gazette;

(i) "offence" means any act or omission punishable under this Act and includes a civil offence;

(j) "officer" means a person appointed or in pay as an officer of the Regiment but does not include a subordinate officer or an under officer;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Regiment" means Tribal *Adivasi* Regiment constituted under section 3;

(m) "regiment custody" means the arrest or confinement of a member of the Regiment according to rules;

(n) "rule" means, a rule made under this Act;

(o) "Security Regiment Court" means a court for trial of offences under the Act, to be converted in such manner as may be prescribed;

(p) "superior officer" when used in relation to a person subject to this Act, means,—

(i) any member of the Regiment to whose command such person is for the time being, subject in accordance with the rules; and

(ii) any officer of higher rank or class or of a higher grade in the same class; and

includes when such person is not an officer, a subordinate officer or an under officer of higher rank, class or grade;

(q) "subordinate officer" means a person appointed or in pay as Subedar-Major, as a Sub-Inspector of the Regiment; and

(r) "under-officer" means a Head Constable, Naik and Lance Naik of the Regiment.

3. (1) There shall be an armed Regiment of the Union Called the Tribal Adivasi Regiment to ensure the security of the country.

(2) Subject to the provisions of this Act, the Regiment shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Regiment shall be such as may be prescribed.

4. (1) The general superintendance, direction and control of the Regiment shall vest in and be exercised by the Central Government and subject thereto and to the provisions of this Act and rules made thereunder, the command and superintendence of the Regiment

Constitution
of the Tribal
Adivasi
Regiment.

Direction and
control of the
Regiment.

shall vest in an officer to be appointed by the Central Government as the Director-General of the Regiment.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such member of the rank of Inspector General, Deputy Inspector General, Commandants and other officers as may be prescribed.

Enrolment to the Regiment.

5. (1) The persons to be enrolled to the Regiment, the mode of enrolment and the procedure for enrolment shall be such as may be prescribed.

(2) Notwithstanding anything contained in this Act and the rules made thereunder, every person who has, for a continuous period of three months been in receipt of pay as a person enrolled under this Act and borne on the rolls of the Regiment shall be deemed to have been duly enrolled.

Liability for service outside India.

6. Every member of the Regiment shall be liable to serve in any part of India as well as outside India as and when required by the Government during his term of engagement.

7. No member of the Regiment shall be at liberty,—

(a) to resign his appointment during the term of this engagement; or

(b) to withdraw himself from all or any of the duties of this appointment,

except with the prior permission in writing of the prescribed authority.

8. Every person subject to this Act shall hold office during the pleasure of the President.

Tenure of service.

Termination of service by Central Government.

9. Subject to the provisions of this Act and rules, the Central Government may dismiss or remove any person from service.

Certificate of termination of service.

10. A subordinate officer or an under-officer or other enrolled person who is retired, discharged, released, removed or dismissed from service shall be presented by the officer, to whose command he is subject, with a certificate in the language which is the mother tongue of such person and also in Hindi or English language setting forth—

(a) the authority terminating his service;

(b) the cause for such termination; and

(c) the full period of his service in the Regiment.

Dismissal, removal or reduction by the Director General and by other officer.

11. (1) the Director General or any Inspector General may dismiss or remove from the service or reduce to a lower grade or rank or ranks any person subject to this Act other than an officer.

(2) An officer not below the rank of Deputy Inspector General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or subordinate officer of such rank or ranks as may be prescribed.

(3) Any officer not below the rank of Deputy Inspector General or any prescribed officer may reduce to a lower grade or rank or ranks any person under his command except an officer or a subordinate officer.

(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules made thereunder.

Mutiny.

12. Any person subject to this Act who commits any of the following offences, that is to say—

(a) begins, incites, causes or conspires with any other person to cause any mutiny in the Regiment or in the Army, Naval or Air Forces of India or any forces co-operating therewith; or

- (b) joins in any such mutiny; or
- (c) being present at any such mutiny, does not use his utmost endeavor to suppress the same; or
- (d) knowing or having reason to believe in the existence of any such mutiny or of any intention to mutiny or of any such conspiracy, does not without delay, give information thereof to his commandant or other superior officer; or
- (e) endeavors to seduce any person in the Regiment or in the Army, Naval or Air Forces of India or any forces co-operating therewith from his duty or allegiance to the Union,

shall, on conviction by a Security Regiment Court, be liable to suffer death or such less punishment as is mentioned in this Act.

13. Any person subject to this Act who commits any of the following offences that is to say—

- (a) absents himself without leave; or
- (b) without sufficient cause overstays leave granted to him; or
- (c) without sufficient cause fails to appear at the time appointed at the parade or place fixed for exercise or duty; or
- (d) when on parade, or on the line of march without sufficient cause or without leave from his senior officer, quits the parade or line of march; or
- (e) without leave from his senior officer or without due cause, absents himself from any school when duly ordered to attend there,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto five years.

14. Any officer, subordinate officer or under officer applies criminal force on a person that holds such a post as is under this Act or misbehave with him, shall on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto ten years.

15. Any person subject to this Act who commits any of the following offences that is to say—

- (a) commits extortion; or
- (b) without proper authority exacts from any person money, provisions or service, shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto ten years.

16. Any person subject to this Act who commits any of the following offences, that is to say—

- (a) make a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or
- (b) in lodging a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and willfully suppresses any materials facts, shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto three years or such less punishment as is in this Act mentioned.

17. Any person subject to this Act who disobeys in such manner as to show a willful defiance of authority any lawful command given personally by his senior officer in the execution of his office whether the same is given orally or in writing or by signal or shall on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto twenty years or such less punishment as is provided in this Act.

Absence
without leave.

Misbehaviour
with a senior
officer.

Extortion and
corruption.

False
accusations.

Disobedience
to Senior
Officer.

Offence relating to Security Regiment Court.

Punishment awardable by Security Regiment Court.

18. Any person subject to this Act who commits any of the following offences, that is to say—

- (a) being duly summoned or ordered to attend as witness before a Security Regiment Court, willfully or without reasonable excuse makes default in attendance; or
- (b) refuses to take an oath or make an affirmation legally required by a Security Regiment Court to be taken or made; or
- (c) refuses to provide or deliver any document in his power or control legally required by a Security Regiment Court to be produced or delivered by him; or
- (d) refuses, when a witness, to answer any question which he is by law bound to answer; or
- (e) is guilty of contempt of the Security Regiment Court by using insulting or threatening language or by causing any interruption of disturbance in the proceedings of such court,

shall on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is mentioned in this Act.

19. (1) Punishment may be inflicted in respect of offences committed by persons subject to this Act and convicted by Security Regiment court according to the scale following, that is to say—

- (a) death; or
 - (b) imprisonment which may be for the term of life of any other lesser term but excluding imprisonment for a term not exceeding three months in Regiment Custody; or
 - (c) dismissal from service; or
 - (d) imprisonment for a term not exceeding three months in Regiment custody; or
 - (e) reduction to the ranks or to a lower rank or grade or a place in the list of their rank in the case of under-officer; or
 - (f) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion; or
 - (g) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose; or
 - (h) fine in respect of civil offences; or
 - (i) severe reprimand or reprimand except in the case of person below the rank of an under-officer; or
 - (j) forfeiture of pay and allowances for a period not exceeding three months for an offence committed in active duty; or
 - (k) forfeiture in case of person sentenced to dismissal from service of all the arrears of pay and allowances and other public money due to him at the time to such dismissal; or
 - (l) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.
- (2) Each of the punishment specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

20. A Commandant or such officer as is with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer or a subordinate officer who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the following punishment, that is to say—

- (a) imprisonment in Regiment custody upto twenty-eight days; or
- (b) detention upto twenty-eight days; or
- (c) confinement to the lines upto twenty-eight days; or
- (d) extra guards or duties; or
- (e) deprivation of any special position or special employments or any acting rank or reduction to a lower grade of pay; or
- (f) forfeiture of good service and good conduct pay; or
- (g) severe reprimand or reprimand; or
- (h) fine upto fourteen days pay in any one month; and
- (i) deduction from his pay of any sum required to make good such compensation for any expense, loss, damage, or destruction caused by him to the Central Government or to any building or property as may be awarded by his commandant.

21. (1) An officer who is not below the rank of Deputy Inspector General or any other officer specified by the Director General with the consent of the Central Government shall initiate proceedings against any subordinate officer or one of the rank of subordinate officer who is the accused of any offence under this Act, in the prescribed manner and shall award one or more punishment of the following punishments, that is to say—

- (a) forfeiture of seniority or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a Security Regiment Court; or
- (b) severe reprimand or reprimand; or
- (c) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

(2) In every case in which punishment has been awarded under sub-section (1), certified true copies of the proceedings shall be forwarded in the prescribed manner by the officer awarding the punishment to the prescribed senior authority who may, if the punishment awarded appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

22. (1) Whenever any weapon or part of a weapon or ammunition, forming part of the equipment of a unit of the Regiment, is lost or stolen, an officer not lower than the rank of the commandant of a battalion may, after making such enquiry as he thinks fit and subject to the rules, impose a collective fine upon the subordinate officers, under-officers and men of such unit or upon so many of them, as in his judgment should be held responsible for such loss or theft.

(2) Such fine shall be assessed as a percentage on the pay of the individuals on whom it fall.

23. The Central Government shall after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, for carrying out the purposes of this Act.

Minor
Punishment.

Punishment to
persons of and
below the rank
of subordinate
officer by
Deputy
Inspector
General and
others.

Collective
fines.

Central
Government
to provide
funds.

Power to give directions.

24. The Central Government may give such directions to the Government of State concerned within the territorial jurisdiction of a State for carrying out in the State any provision of this Act or any rule made thereunder.

Power to make rules.

25. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In the pre-independence era various Regiments had been constituted seeking their base in historic as well as symbolic reasons. In the post-independence era so many Regiments had been constituted, according respect and esteem to the military values of various cultures. The constitution of Ladakh Scouts, Naga Regiment, Arunachal Scouts and the Sikkim Scouts are cases in point that were formed in the years 1963, 1970, 2010 and 2013 respectively.

Adivasi is the collective term for the indigenous peoples of India. In India, Scheduled Tribes are referred to as Adivasi. Although, the term indigenous and tribe have different meanings, indigenous means descent from populations, who inhabited the country or region at the time of conquest, colonisation and tribe means who are distinguished by their social, cultural and economic conditions from other sections of the community. Scheduled Tribes make up 8.6 per cent of India's population, or 104 million people, according to the 2011 census.

Adivasi societies are particularly prominent in Rajasthan, Andhra Pradesh, Chhattisgarh, Gujarat, Jharkhand, Mandhya Pradesh, Maharashtra, Odisha, West Bengal, and some north-eastern states, and the Andaman and Nicobar Islands.

Adivasi Regiment would not only strengthen the security of the borders but will also act as a gesture of respect to the great traditions, values and culture of tribal population in the country.

Hence this Bill.

DR. KIROLILAL MEENA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Tribal Regiment. Clause 4 provides for appointment of certain officers of the Regiment. Clause 23 provides requisites funds for functioning of the Regiment. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the funds that may be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is, therefore, of a normal character.

V

BILL No. XXXII OF 2019

A Bill to provide for the erection and management of a National Memorial to perpetuate the memory of those killed or wounded on the 17th day of November, 1913, in Mangarh Dham in the State of Rajasthan.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Mangarh Dham National Memorial Act, 2019.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "Memorial" means the Mangarh Dham National Memorial to perpetuate the memory of those killed or wounded on the 17th day of November, 1913, on the site known as the Mangarh Dham, Banswara, State of Rajasthan;
- (b) "Trust" means the Trust for the erection and Management of the Memorial.
- (c) "Trustees" means the Trustees of the Mangarh Dham National Memorial.

Objects of the Trust.

3. The objects of the Trust shall be —

- (a) **to erect and maintain suitable buildings, structures and parks at or near the site of the Mangarh Dham in the city of Banswara, State of Rajasthan to perpetuate the memory of those who were killed or wounded on the 17th day of November, 1913, on the said site;**
- (b) **to acquire lands, buildings and other properties for the purposes of the Trust; and**
- (c) **to raise and receive funds for the purposes of the Memorial.**

Trustees of the Memorial.

4. (1) The Trustees of the Memorial shall be the following, namely:—

- (a) the Prime Minister—Chairperson,
- (b) the Union Minister in-charge of Culture,
- (c) the Leader of Opposition recognised as such in the House of the People or where there is no such Leader of Opposition, the Leader of the single largest opposition party in that House;
- (d) the Governor of the State of Rajasthan;
- (e) the Chief Minister of the State of Rajasthan; and
- (f) three eminent persons to be nominated by the Central Government.

(2) The trustees shall be a body corporate with perpetual succession by the name of the "Trustees of the Mangarh Dham National Memorial" and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts and to do all acts necessary for, and consistent with, the purposes of this Act.

Term of office of nominated Trustees.

5. The Trustees nominated under clause (f) of sub-section (1) of section 4 shall be Trustees for a period of five years, and shall be eligible for renomination.

Property vested in Trustees.

6. All the funds and property, whether movable or immovable, which may hereafter be given, bequeathed or otherwise transferred for the purposes of the Memorial or acquired for the said purposes shall vest in the Trustees.

Power of Trustees to appoint committee of management.

7. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Trusts, grants of such sums of money as the Central Govt. may think fit, for the purposes of this Act.

8. (1) For the purposes of managing the affairs of the Trust, the Trustees may, by resolution passed at a meeting, appoint a committee of management, and entrust to it such powers, duties and functions, under such directions and limitations, as may be defined by such resolution.

(2) The Trustees may appoint any person as members of the committee of management, whether such person are Trustees or not, and may, from time to time, vary or rescind any resolution passed by it under this section.

9. The Trust shall meet at least once in a year to approve the audited accounts of the Trust and shall transact such other business as may be considered necessary.

Power to
approve
audited
accounts.

10. No act of the Trustees shall be deemed to be invalid merely by reason any vacancy in, or any defect in the constitution of, the body of Trustees.

Validity of acts
of Trustees
not to be
questioned by
reason of
vacancy, etc.

11. (1) The accounts of the Trust shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Trust to the Comptroller and Auditor-General.

Accounts and
audit.

(2) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Trust under this Act, shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Trust.

(3) The accounts of the Trust as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Trust and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

12. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the objects of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which funds belonging to the Memorial shall be kept deposited or invested;

(b) the mode of authentication of orders for payment of money by the Trustees;

(c) the form in which accounts shall be kept by the Trustees and the audit and publication of such accounts;

(d) the laying out, erection, improvement, maintenance and management of the Memorial and the care and custody of the properties thereof.

(e) the condition under which the public shall have access to the Memorial or particular parts thereof and the regulation of the conduct of persons entering the precincts of the Memorial;

(f) the preservation of, and the prevention of injury to or interference with, any property vested in the Trustees and the prevention of persons from trespassing into any particular part of the Memorial.

(3) A rule made under this section may provide that a breach of any rule made under clauses (e) and (f) of sub-section (2) shall be punishable with fine which may extend to one hundred rupees.

13. The Trustees may make regulations consistent with this Act for all or any of the following purpose, namely:—

(a) the manner in which meetings of the Trustees shall be convened, the quorum for the transaction of any business thereat and the procedure at such meetings;

Power of
Trustees to
make
regulations.

-
- (b) the manner in which a majority decision of the Trustees shall be obtained by circulation to the Trustees of the matter requiring decision;
- (c) the term of office of members of the committee of management, their powers and duties, and the circumstances in which and the conditions subject to which such powers and duties may be exercised;
- (d) the appointment of such officers and servants as may be necessary for the purpose of the Trust, and their terms and conditions of service.

Rules and
regulations to
be laid before
Parliament.

14. Every rule or regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

STATEMENT OF OBJECTS AND REASONS

All of us remember the Jallianwala Bagh massacre. On the day of Baisakhi (13th April, 1919), British soldiers under General Dyer fired at the assembled people who came to celebrate Baisakhi. As per the British official estimate, 379 people died but modern historians believe that more than one thousand innocent men, women and children died on that day at Jallianwala Bagh in Amritsar.

But very few of us know that six years prior to Jallianwala Bagh, British soldiers along with the soldiers of rulers of some smaller states, attacked and killed assembled innocent Bhils at Mangarh on 17th November, 1913. The number of casualties was more than one thousand five hundred. Mangarh is known as Jallianwala Bagh of Rajasthan.

To rely on the oral history of the Bills, the English army had foiled 1500 supporters of the tribal leader and reformist Govind Guru with gunfire on Mangarh tekri. Govind was a resident of Vedasa village near Dungarpur in Rajasthan, from the Banjara community. He awakened the Bhil community and filled them with a sense of patriotism, and inspired them to fight for freedom. More than 1500 Gurubhakt Bhils sacrificed their lives while fighting against the British army. It is therefore also known as Jallianwala Bagh of Rajasthan.

Historical research also confirms this verbal history of the Bills. A historian at Gujarat University, points out that Govind Guru had started his movement in the 1890s among the Bhils. The fire god was considered a symbol in the movement. The followers has to stand in front of the sacred fire and do havan (*i.e.* fumigation) along with the worship.

Govind Guru and Mangarh Massacre have become part of the memory of Bhils. Despite this, it was buried in remote areas of Banswara-Panchmahal, situated on the border of Rajasthan and Gujarat, and this historic tragedy could not become more than a footnote in the history of India's freedom fight.

The need is, therefore, to recognise the sacrifice given by the Bhils of Banswara at Mangarh in State of Rajasthan by providing for establishment of a Mangarh Dham National Memorial to perpetuate the memory of those killed or wounded on 17th day of November, 1913 at Mangarh in Banswara, State of Rajasthan.

Hence this Bill.

DR. KIRODI LAL MEENA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the Trust to erect and maintain suitable buildings, structures and parks at or near the site of the Mangarh Dham in the city of Banswara; to acquire lands, buildings and other properties for the purposes of the Trust; and to raise and receive funds for the purposes of the Memorial. Clause 7 provides for making grants to the trustees by the Central Government after the appropriation by Parliament by law for the purpose of the Act.

The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However it is difficult to estimate the amount required for the purpose as it would depend upon the decisions of the trust.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only, and as such, the delegation of legislative power is of a normal character.

VI

BILL NO. XXXV OF 2019

A Bill to provide for reservation for the persons belonging to Scheduled Castes and Scheduled Tribes in private sector and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Reservation for Scheduled Castes and Scheduled Tribes in Private Sector Act, 2019.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "private sector" means any organisation or establishment which is not owned by the Central Government; and but is under the regulatory control regime of the Central Government;

(b) "prescribed" means prescribed by rules made under this Act; and

(c) "reservation" means reservation in the matter of appointments and promotion in services in favour of persons belonging to the Scheduled Castes and the Scheduled Tribes, in Private Sector.

3. (1) There shall be reservation in favour of persons belonging to Scheduled Castes and Scheduled Tribes in private sector.

(2) The reservation in favour of persons belonging to Scheduled Castes and Scheduled Tribes in private sector shall be not less than the percentage of reservation fixed for them in services under the Central Government.

4. Every private sector shall comply with the provisions contained in section 3.

Reservation
in private
sector.

Compulsory
compliance
by Private
Sector.

Non-
compliance
of
provisions
of Act.

Power to
make rules.

5. An organisation in private sector which does not comply with the provisions of this Act shall not be entitled to:—

(i) the concessions or facilities as may be extended by the Central Government from time to time to private sector; and

(ii) any loan facilities from any financial institution under the control of the Central Government.

6. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Government has done well by making provision for reservation for Scheduled Castes and Scheduled Tribes in appointment and posts under the State and in educational institutions. Despite this, the community has not gained much. Jobs in Government sector are very few. Moreover, with the economic liberalisation and globalisation, the avenues in Government sector has shranked very much as privatisation has become the new mantra now.

With the all-round privatisation and globalisation, the rights of persons belonging to Scheduled Castes and Scheduled Tribes are not getting any protection from the State. Nearly forty per cent of our population belongs to these communities.

The Government should give its attention in improving the economy of our country and at the same time the rightful claims of persons belonging to Scheduled Castes and Scheduled Tribes should not be ignored. The only alternative resting with the Government is to encourage private sector to make provision for reservation in their organisations.

The Bill seeks to achieve the above objectives.

DR. KIRODI LAL MEENA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The rules will relate to matters of administrative detail only and as such the delegation of legislative power is of a normal character.

VII

BILL No. XXXVIII OF 2019

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

- | | |
|---|---------------------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 2019. | Short title. |
| 2. In the Constitution in article 343,— | Amendment
of article 343. |
| (i) for clause (1), the following shall be <i>substituted</i> , namely:— | Official
language of
the Union. |
| "(1) The official language of the Union in addition to Hindi in Devanagari script, shall be the languages mentioned in the Eighth Schedule to this Constitution." | |
| (ii) In sub-clause (a) of Clause (3), <i>after</i> the words "the English language," the words | |
| "or the languages mentioned in the Eighth Schedule to this Constitution or" shall be inserted. | |

STATEMENT OF OBJECTS AND REASONS

The Constitution has provided for the development of all the regional languages in addition to Hindi. In many countries across the world, there are many languages which are recognized as the official national languages. Zimbabwe in South Africa has 11 official national languages.

India with a population of more than 130 crores has 454 living languages. India is one of the multi-lingual country and has got rich regional culture and traditions. As the nation is known for unity in diversity, it is all the more necessary that all the regional languages recognized in the Eighth Schedule should be encouraged, developed and used as the official language of the Union.

Hence this Bill.

VAIKO

DESH DEEPAK VERMA,
Secretary-General.